

AMENDED IN SENATE JUNE 13, 2012

AMENDED IN SENATE MAY 21, 2012

AMENDED IN SENATE MAY 1, 2012

## SENATE BILL

**No. 1162**

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### **Introduced by Senator Runner**

(Coauthors: Assembly Members Donnelly and Knight)

February 22, 2012

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An act to amend Section 597.1 of the Penal Code, relating to animal control, and declaring the urgency thereof, to take effect immediately.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1162, as amended, Runner. Animal control: tranquilizers.

Existing law authorizes any peace officer, humane society officer, or animal control officer to take possession of a stray or abandoned animal and to provide care and treatment for the animal until the animal is deemed to be in suitable condition to be returned to the animal's owner.

Existing law regulates the distribution of controlled substances, as defined. Among other things, these provisions authorize certain practitioners, including a physician or a veterinarian, or the authorized agent of that practitioner in the presence of the practitioner, to administer controlled substances.

This bill would authorize an animal control officer *or humane officer* to *possess and* administer a tranquilizer that contains a controlled substance to a wild, stray, or abandoned animal, as specified, with indirect supervision as determined by a licensed veterinarian, provided that the officer ~~has received~~ *meets prescribed* training ~~in the administration of tranquilizers from a licensed veterinarian~~ and is

~~otherwise authorized by the officer's authorizing agency to administer the tranquilizer~~ *other requirements*.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 597.1 of the Penal Code is amended to  
2 read:

3 597.1. (a) (1) Every owner, driver, or keeper of any animal  
4 who permits the animal to be in any building, enclosure, lane,  
5 street, square, or lot of any city, county, city and county, or judicial  
6 district without proper care and attention is guilty of a  
7 misdemeanor. Any peace officer, humane society officer, or animal  
8 control officer shall take possession of the stray or abandoned  
9 animal and shall provide care and treatment for the animal until  
10 the animal is deemed to be in suitable condition to be returned to  
11 the owner. When the officer has reasonable grounds to believe that  
12 very prompt action is required to protect the health or safety of the  
13 animal or the health or safety of others, the officer shall  
14 immediately seize the animal and comply with subdivision (f). In  
15 all other cases, the officer shall comply with the provisions of  
16 subdivision (g). The cost of caring for and treating any animal  
17 properly seized under this subdivision or pursuant to a search  
18 warrant shall constitute a lien on the animal and the animal shall  
19 not be returned to its owner until the charges are paid, if the seizure  
20 is upheld pursuant to this section.

21 (2) Notwithstanding any other law, if an animal control officer  
22 *or humane officer*, when necessary to protect the health and safety  
23 of a wild, stray, or abandoned animal or the health and safety of  
24 others, seeks to administer a tranquilizer that contains a controlled  
25 substance, as defined in Division 10 (commencing with Section  
26 11000) of the Health and Safety Code, to gain control of that  
27 animal, he or she may *possess and* administer that tranquilizer  
28 with *direct or* indirect supervision as determined by a licensed  
29 veterinarian, provided that the officer has ~~received~~ *met each of the*  
30 *following requirements:*

1 (A) *Has received* training in the administration of tranquilizers  
2 from a licensed veterinarian ~~and is otherwise~~. *The training shall*  
3 *be approved by the California Veterinary Medical Board.*

4 (B) *Has successfully completed the firearms component of a*  
5 *course relating to the exercise of police powers, as set forth in*  
6 *Section 832.*

7 (C) *Is authorized by his or her—authorizing agency or*  
8 *organization to possess and administer the tranquilizer in*  
9 *accordance with a policy established by the agency or organization*  
10 *and approved by the veterinarian who obtained the controlled*  
11 *substance.*

12 (D) *Has successfully completed the euthanasia training set forth*  
13 *in Section 2039 of Title 16 of the California Code of Regulations.*

14 (E) *Has completed a state and federal fingerprinting background*  
15 *check and does not have any drug- or alcohol-related convictions.*

16 (b) Every sick, disabled, infirm, or crippled animal, except a  
17 dog or cat, that is abandoned in any city, county, city and county,  
18 or judicial district may be killed by the officer if, after a reasonable  
19 search, no owner of the animal can be found. It shall be the duty  
20 of all peace officers, humane society officers, and animal control  
21 officers to cause the animal to be killed or rehabilitated and placed  
22 in a suitable home on information that the animal is stray or  
23 abandoned. The officer may likewise take charge of any animal,  
24 including a dog or cat, that by reason of lameness, sickness,  
25 feebleness, or neglect, is unfit for the labor it is performing, or that  
26 in any other manner is being cruelly treated, and provide care and  
27 treatment for the animal until it is deemed to be in a suitable  
28 condition to be returned to the owner. When the officer has  
29 reasonable grounds to believe that very prompt action is required  
30 to protect the health or safety of an animal or the health or safety  
31 of others, the officer shall immediately seize the animal and comply  
32 with subdivision (f). In all other cases, the officer shall comply  
33 with subdivision (g). The cost of caring for and treating any animal  
34 properly seized under this subdivision or pursuant to a search  
35 warrant shall constitute a lien on the animal and the animal shall  
36 not be returned to its owner until the charges are paid.

37 (c) (1) Any peace officer, humane society officer, or animal  
38 control officer shall convey all injured cats and dogs found without  
39 their owners in a public place directly to a veterinarian known by  
40 the officer to be a veterinarian who ordinarily treats dogs and cats

1 for a determination of whether the animal shall be immediately  
2 and humanely destroyed or shall be hospitalized under proper care  
3 and given emergency treatment.

4 (2) If the owner does not redeem the animal within the locally  
5 prescribed waiting period, the veterinarian may personally perform  
6 euthanasia on the animal. If the animal is treated and recovers from  
7 its injuries, the veterinarian may keep the animal for purposes of  
8 adoption, provided the responsible animal control agency has first  
9 been contacted and has refused to take possession of the animal.

10 (3) Whenever any animal is transferred to a veterinarian in a  
11 clinic, such as an emergency clinic that is not in continuous  
12 operation, the veterinarian may, in turn, transfer the animal to an  
13 appropriate facility.

14 (4) If the veterinarian determines that the animal shall be  
15 hospitalized under proper care and given emergency treatment,  
16 the costs of any services that are provided pending the owner's  
17 inquiry to the responsible agency, department, or society shall be  
18 paid from the dog license fees, fines, and fees for impounding dogs  
19 in the city, county, or city and county in which the animal was  
20 licensed or, if the animal is unlicensed, shall be paid by the  
21 jurisdiction in which the animal was found, subject to the provision  
22 that this cost be repaid by the animal's owner. The cost of caring  
23 for and treating any animal seized under this subdivision shall  
24 constitute a lien on the animal and the animal shall not be returned  
25 to the owner until the charges are paid. No veterinarian shall be  
26 criminally or civilly liable for any decision that he or she makes  
27 or for services that he or she provides pursuant to this subdivision.

28 (d) An animal control agency that takes possession of an animal  
29 pursuant to subdivision (c) shall keep records of the whereabouts  
30 of the animal from the time of possession to the end of the animal's  
31 impoundment, and those records shall be available for inspection  
32 by the public upon request for three years after the date the animal's  
33 impoundment ended.

34 (e) Notwithstanding any other provision of this section, any  
35 peace officer, humane society officer, or any animal control officer  
36 may, with the approval of his or her immediate superior, humanely  
37 destroy any stray or abandoned animal in the field in any case  
38 where the animal is too severely injured to move or where a  
39 veterinarian is not available and it would be more humane to  
40 dispose of the animal.

(f) Whenever an officer authorized under this section seizes or impounds an animal based on a reasonable belief that prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall, prior to the commencement of any criminal proceedings authorized by this section, provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a postseizure hearing to determine the validity of the seizure or impoundment, or both.

(1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice of the seizure or impoundment, or both, to the owner or keeper within 48 hours, excluding weekends and holidays. The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice.

(B) A description of the animal seized, including any identification upon the animal.

(C) The authority and purpose for the seizure, or impoundment, including the time, place, and circumstances under which the animal was seized.

(D) A statement that, in order to receive a postseizure hearing, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning an enclosed declaration of ownership or right to keep the animal to the agency providing the notice within 10 days, including weekends and holidays, of the date of the notice. The declaration may be returned by personal delivery or mail.

(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.

(2) The postseizure hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who directed the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing

1 officer from outside the agency for the purposes of complying with  
2 this section.

3 (3) Failure of the owner or keeper, or of his or her agent, to  
4 request or to attend a scheduled hearing shall result in a forfeiture  
5 of any right to a postseizure hearing or right to challenge his or  
6 her liability for costs incurred.

7 (4) The agency, department, or society employing the person  
8 who directed the seizure shall be responsible for the costs incurred  
9 for caring and treating the animal, if it is determined in the  
10 postseizure hearing that the seizing officer did not have reasonable  
11 grounds to believe very prompt action, including seizure of the  
12 animal, was required to protect the health or safety of the animal  
13 or the health or safety of others. If it is determined the seizure was  
14 justified, the owner or keeper shall be personally liable to the  
15 seizing agency for the cost of the seizure and care of the animal,  
16 the charges for the seizure and care of the animal shall be a lien  
17 on the animal, and the animal shall not be returned to its owner  
18 until the charges are paid and the seizing agency or hearing officer  
19 has determined that the animal is physically fit or the owner  
20 demonstrates to the seizing agency's or the hearing officer's  
21 satisfaction that the owner can and will provide the necessary care.

22 (g) Where the need for immediate seizure is not present and  
23 prior to the commencement of any criminal proceedings authorized  
24 by this section, the agency shall provide the owner or keeper of  
25 the animal, if known or ascertainable after reasonable investigation,  
26 with the opportunity for a hearing prior to any seizure or  
27 impoundment of the animal. The owner shall produce the animal  
28 at the time of the hearing unless, prior to the hearing, the owner  
29 has made arrangements with the agency to view the animal upon  
30 request of the agency, or unless the owner can provide verification  
31 that the animal was humanely destroyed. Any person who willfully  
32 fails to produce the animal or provide the verification is guilty of  
33 an infraction, punishable by a fine of not less than two hundred  
34 fifty dollars (\$250) nor more than one thousand dollars (\$1,000).

35 (1) The agency shall cause a notice to be affixed to a  
36 conspicuous place where the animal was situated or personally  
37 deliver a notice stating the grounds for believing the animal should  
38 be seized under subdivision (a) or (b). The notice shall include all  
39 of the following:

1 (A) The name, business address, and telephone number of the  
2 officer providing the notice.

3 (B) A description of the animal to be seized, including any  
4 identification upon the animal.

5 (C) The authority and purpose for the possible seizure or  
6 impoundment.

7 (D) A statement that, in order to receive a hearing prior to any  
8 seizure, the owner or person authorized to keep the animal, or his  
9 or her agent, shall request the hearing by signing and returning the  
10 enclosed declaration of ownership or right to keep the animal to  
11 the officer providing the notice within two days, excluding  
12 weekends and holidays, of the date of the notice.

13 (E) A statement that the cost of caring for and treating any  
14 animal properly seized under this section is a lien on the animal,  
15 that any animal seized shall not be returned to the owner until the  
16 charges are paid, and that failure to request or to attend a scheduled  
17 hearing shall result in a conclusive determination that the animal  
18 may properly be seized and that the owner shall be liable for the  
19 charges.

20 (2) The preseizure hearing shall be conducted within 48 hours,  
21 excluding weekends and holidays, after receipt of the request. The  
22 seizing agency may authorize its own officer or employee to  
23 conduct the hearing if the hearing officer is not the same person  
24 who requests the seizure or impoundment of the animal and is not  
25 junior in rank to that person. The agency may utilize the services  
26 of a hearing officer from outside the agency for the purposes of  
27 complying with this section.

28 (3) Failure of the owner or keeper, or his or her agent, to request  
29 or to attend a scheduled hearing shall result in a forfeiture of any  
30 right to a preseizure hearing or right to challenge his or her liability  
31 for costs incurred pursuant to this section.

32 (4) The hearing officer, after the hearing, may affirm or deny  
33 the owner's or keeper's right to custody of the animal and, if  
34 reasonable grounds are established, may order the seizure or  
35 impoundment of the animal for care and treatment.

36 (h) If any animal is properly seized under this section or pursuant  
37 to a search warrant, the owner or keeper shall be personally liable  
38 to the seizing agency for the cost of the seizure and care of the  
39 animal. Furthermore, if the charges for the seizure or impoundment  
40 and any other charges permitted under this section are not paid

1 within 14 days of the seizure, or, if the owner, within 14 days of  
2 notice of availability of the animal to be returned, fails to pay  
3 charges permitted under this section and take possession of the  
4 animal, the animal shall be deemed to have been abandoned and  
5 may be disposed of by the impounding officer.

6 (i) If the animal requires veterinary care and the humane society  
7 or public agency is not assured, within 14 days of the seizure of  
8 the animal, that the owner will provide the necessary care, the  
9 animal shall not be returned to its owner and shall be deemed to  
10 have been abandoned and may be disposed of by the impounding  
11 officer. A veterinarian may humanely destroy an impounded animal  
12 without regard to the prescribed holding period when it has been  
13 determined that the animal has incurred severe injuries or is  
14 incurably crippled. A veterinarian also may immediately humanely  
15 destroy an impounded animal afflicted with a serious contagious  
16 disease unless the owner or his or her agent immediately authorizes  
17 treatment of the animal by a veterinarian at the expense of the  
18 owner or agent.

19 (j) No animal properly seized under this section or pursuant to  
20 a search warrant shall be returned to its owner until, in the  
21 determination of the seizing agency or hearing officer, the animal  
22 is physically fit or the owner can demonstrate to the seizing  
23 agency's or hearing officer's satisfaction that the owner can and  
24 will provide the necessary care.

25 (k) (1) Upon the conviction of a person charged with a violation  
26 of this section, or Section 597 or 597a, all animals lawfully seized  
27 and impounded with respect to the violation shall be adjudged by  
28 the court to be forfeited and shall thereupon be transferred to the  
29 impounding officer or appropriate public entity for proper adoption  
30 or other disposition. A person convicted of a violation of this  
31 section shall be personally liable to the seizing agency for all costs  
32 of impoundment from the time of seizure to the time of proper  
33 disposition. Upon conviction, the court shall order the convicted  
34 person to make payment to the appropriate public entity for the  
35 costs incurred in the housing, care, feeding, and treatment of the  
36 seized or impounded animals. Each person convicted in connection  
37 with a particular animal may be held jointly and severally liable  
38 for restitution for that particular animal. The payment shall be in  
39 addition to any other fine or sentence ordered by the court.



1 (2) The court may also order, as a condition of probation, that  
2 the convicted person be prohibited from owning, possessing, caring  
3 for, or residing with, animals of any kind and require the convicted  
4 person to immediately deliver all animals in his or her possession  
5 to a designated public entity for adoption or other lawful disposition  
6 or provide proof to the court that the person no longer has  
7 possession, care, or control of any animals. In the event of the  
8 acquittal or final discharge without conviction of the arrested  
9 person, the court shall, on demand, direct the release of seized or  
10 impounded animals upon a showing of proof of ownership.

11 (3) Any questions regarding ownership shall be determined in  
12 a separate hearing by the court where the criminal case was finally  
13 adjudicated and the court shall hear testimony from any persons  
14 who may assist the court in determining ownership of the animal.  
15 If the owner is determined to be unknown or the owner is  
16 prohibited or unable to retain possession of the animals for any  
17 reason, the court shall order the animals to be released to the  
18 appropriate public entity for adoption or other lawful disposition.  
19 This section is not intended to cause the release of any animal,  
20 bird, reptile, amphibian, or fish seized or impounded pursuant to  
21 any other statute, ordinance, or municipal regulation. This section  
22 shall not prohibit the seizure or impoundment of animals as  
23 evidence as provided for under any other provision of law.

24 (l) It shall be the duty of all peace officers, humane society  
25 officers, and animal control officers to use all currently acceptable  
26 methods of identification, both electronic and otherwise, to  
27 determine the lawful owner or caretaker of any seized or  
28 impounded animal. It shall also be their duty to make reasonable  
29 efforts to notify the owner or caretaker of the whereabouts of the  
30 animal and any procedures available for the lawful recovery of the  
31 animal and, upon the owner's and caretaker's initiation of recovery  
32 procedures, retain custody of the animal for a reasonable period  
33 of time to allow for completion of the recovery process. Efforts to  
34 locate or contact the owner or caretaker and communications with  
35 persons claiming to be the owner or caretaker shall be recorded  
36 and maintained and be made available for public inspection.

37 SEC. 2. This act is an urgency statute necessary for the  
38 immediate preservation of the public peace, health, or safety within  
39 the meaning of Article IV of the Constitution and shall go into  
40 immediate effect. The facts constituting the necessity are:

- 1 In order to protect the citizens of the state from wild, stray, or
- 2 abandoned animals at the earliest possible time, it is necessary that
- 3 this act take effect immediately.

O